

## REMARKS

Claims 1-13, all the claims pending in the application, stand rejected. Claims 1 and 3-13 have been amended.

### *Reopening Prosecution*

The Examiner has indicated that, in view of the Brief filed on December 8, 2003, prosecution on the present application is reopened. The Examiner provides a new ground of rejection. In order to avoid abandonment of the application, Applicants must either (1) file a Response under 37 C.F.R. § 1.111, as this is a non-final Office Action, or (2) request reinstatement of the appeal. Since the Examiner has now cited two new prior art references, Applicants believe the only reasonable alternative is to file a reply in response to this non-final Office Action.

### *Claim Rejections - 35 U.S.C. § 102*

**Claims 1-8 and 11-13 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Ota (EP 823,270).** This rejection is traversed for at least the following reasons.

#### The Invention

The present invention comprises apparatus, method steps and media recording such method steps relating to the performance of a game with game music. In the apparatus, there is a **commercially available music CD reproducing means**, a commercially available judgment means for judging a **predetermined commercially available music CD** based on reading of recorded content, operation timing data storage means for storing timing data indicative of timings of which a player should operate a controller and music game execution means for causing the reproducing means to reproduce game music based on recorded content and for guiding timings at which a player should operate the controller in accordance with the game music that reproduce, based on the operation timing data. The definition of the invention in claim 1, and all other independent claims, has been amended to specify that the “predetermined commercially available music CD” has recorded content “which corresponds to operation timing data prepared beforehand.”

Ota

The Examiner points to Ota for a video dance game apparatus that displays an image of at least two dancers on a screen and includes a controller usable by a player to control the dancers in their performance of various dance routines. As illustrated in Fig. 1, the game machine is controlled by a CPU that receives data from a ROM 2 or RAM 3 and provides input to sound devices and displays in response to an operation section 6. By a player controlling the operation device 6, an input is provided to the CPU where a comparison is made to predetermined performance data and the score calculated by the CPU on the basis of a time lag between readout timing of the dance performance data piece and a generation timing of beat information.

The basic operation of the first embodiment in Ota is disclosed at page 10, beginning at line 24, and teaches that the operation section may include normal push buttons or drive lever 6a, 6b. A flowchart for operating the game is illustrated in Figs. 3-6 and an operator can make a variety of selections of the type of music to be played, the dancer to be used and the level of competition, for example. As explained at page 12, beginning at line 40, the CPU judges whether or not a timing is accurate on the basis of the music played and other visual cues. The CPU 1 has the ability to calculate scores, as explained at page 12, beginning at line 58. The judgment is with respect to continuity between a previous performance and a present performance and with respect to playing various dance performances in harmonization with the beat timing of the dance music.

As explained at page 14, with regard to the section disclosing the sixth embodiment, the information recording medium may be a CD or DVD, having dance music dedicated to the game apparatus coupled with score ratio data that is stored in advance. In that same section, the reference discloses that the invention is not limited to such pre-stored recording medium but that the embodiment may reproduce a general dance music CD so long as an extraction device, made from hardware or constructed within the CPU 1, can extract a beat component from a reproduction signal of the music CD using a filter or the like.

There is no additional disclosure of the manner in which the “general dance music CD” is used or constructed.

First, a “general dance music CD” as referenced in the Ota publication is not the **predetermined commercial available music CD** contemplated by the Applicants. For example, in one embodiment disclosed in Ota, music data is stored in a CD dedicated to the game machine and the music data includes a beat signal (page 12, lines 10 to 16). This embodiment of Ota uses on-beat timing, which is detected on the basis of the beat signal, for calculating scores. As already noted, in another embodiment disclosed in Ota, a “general dance music CD” is used. The general dance music CD is considered to be commercially available music CD. Apparently, the “beat signal” is not stored in the general music CD. Thus, in Ota, the beat component is extracted from reproduction signal of the general dance music CD by applying filter for the reproduction signal. Consequently, the on-beat timing is considered to be judged from the beat extract. Thus, in Ota there is no need to prepare the operation timing data beforehand, because the beat component is extracted from the “general dance music CD.”

The Ota reference does not disclose the method to associate the general dance music CD with operation timing data. Further, it is not disclosed in Ota that the timing date is prepared beforehand, as now claimed.

A second and perhaps, more compelling argument is that there is no judgment made with regard to whether the commercially available music CD is a predetermined type CD, based on recorded content. Applicants submit that no such judgment is taught or even suggested in Ota. More specifically, as now defined, there is no need to judge whether or not the general music CD corresponds to the operation timing data prepared beforehand. In short, the music game in Ota may be played with whatever kind of general dance music CD is set. Thus, there is no disclosure that a judgment as to whether or not the commercially available music CD set on a CD tray is a predetermined one that corresponds to operation timing data prepared beforehand.

Applicants respectfully submit that nothing would teach or suggest that such judgment should be made in Ota. Applicants have added a feature not disclosed in the prior art and not obvious from brief teachings in Ota. That is, according to the present application, music game can be played only when the predetermined commercially available music CD is set on the basis of operating timing data prepared beforehand. In this way a collaboration between a business

related to the music game and a business related to the predetermined commercially available music CD is achieved. That is to say, a "general dance music CD" as is used by Ota is different from "predetermined commercially available music CD" of the present invention. The former means any music CD and the latter means a specific music CD corresponding to the operation timing data prepared beforehand.

Finally, Applicants note the disclosure in Ota that the music data and score ratio data are stored in information record medium, at page 14 beginning at line 43. However, the score ratio data is not the operation timing data which guides the timing at which a player should operate a controller. The score ratio data is data to specify a climax part of the music. Further, Ota discloses use of the information record medium in which the music data and the score ratio data are stored, or as an alternative for that, the use of the general dance music CD. However, using contents of general dance music CD along with corresponding operation timing data prepared beforehand separately is not disclosed in Ota.

*Claim Rejections - 35 U.S.C. § 103*

**Claims 9 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ota (EP 823,270) in view of Okamoto (5,735,744).** This rejection should be traversed for at least the following reasons.

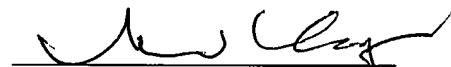
Applicant's arguments for distinguishing over Ota are not overcome by the teachings of Okamoto. In short, Okamoto would make no determination as to whether a CD is a commercially available music CD of a particular type. Moreover, there is no teaching that the timing is provided beforehand.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111  
09/783,327

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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